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United States Department of the Interior
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
219 CENTRAL AVENUE, NW
ALBUQUERQUE, NEW MEXICO 87102

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DIVISION OF OIL
GAS & MINING

ACI 1015/025
#7

Dr. Dianne R. Nielson, Director
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203

Dear Dr. Nielson:

I have received your response to Ten Day Notice 85-02-031-03 for Co-op Mining's Bear Canyon Mine. You point out that DOGM cited the operator on July 8, 1983 for operating without a permit and required that the operator cease use of the road until a valid permit was obtained. Then on October 27, 1983 the Board entered into a consent order vacating the NOV and requiring a permit by November 23, 1983. You go on to say that because DOGM and Co-op are pursuing a permit: no enforcement action will be taken because in the Division's view the operator is complying with the consent order. In essence, the reason that the road is not yet permitted is due to administrative delays encountered in permitting.

There are, however, some matters that are not clear regarding the Division's and Board's handling of the July 8, 1983 NOV #83-1-2-3, #2 of 3.

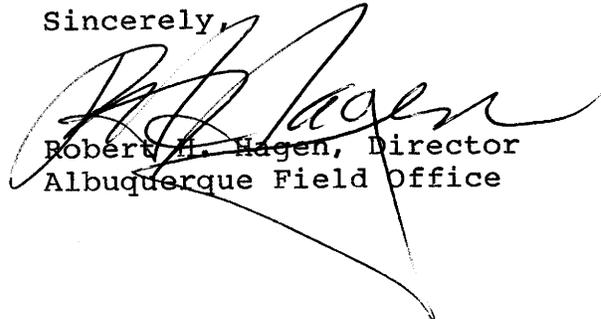
1. DOGM's citation of July 8, 1983 required that the operator cease use of the road until a permit was obtained. A consent order was signed by the Board and Co-op on October 27, 1983. At what time was the operator allowed to resume use of the road and under what authority?
2. Co-op and Emery County entered into an agreement regarding ownership and jurisdiction for the road on August 3, 1983, 26 days after the NOV was issued. The Board vacated the NOV on October 27, 1983 because the road had been subject to litigation between Co-op and Emery County. Please clarify what constituted litigation and how the Board could determine that a violation did not exist because of the litigation.
3. What formal action was taken by the Board or DOGM to extend the required date for a permit from November 23, 1983 to whenever a permit will be issued?

Dr. Nielson

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The second part of this TDN dealt with a recreational use area about 0.6 mile south of the mine site. Mr. Mel Coonrod told the OSM inspectors that some preliminary work had been done, including grading and the installation of a water sprinkler system to prepare the site for topsoil storage. Based on the information presented in your response, no further enforcement action should be taken at this time since any work that has been done could be justified from a recreational use standpoint. The operator's proposal to stockpile substitute topsoil material in this area must be approved by the Division before any mine related work can commence.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. H. Hagen", is written over the typed name and title. The signature is fluid and extends across the width of the typed text.

Robert H. Hagen, Director
Albuquerque Field Office